

Union Calendar No. 118

108TH CONGRESS
1ST SESSION**H. R. 2754****[Report No. 108–212]**

Making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2003

Mr. HOBSON, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2004, for energy and
6 water development, and for other purposes, namely:

1 TITLE I
2 DEPARTMENT OF DEFENSE—CIVIL
3 DEPARTMENT OF THE ARMY
4 CORPS OF ENGINEERS—CIVIL

5 The following appropriations shall be expended under
6 the direction of the Secretary of the Army and the super-
7 vision of the Chief of Engineers for authorized civil func-
8 tions of the Department of the Army pertaining to rivers
9 and harbors, flood control, shore protection, aquatic eco-
10 system restoration, and related purposes.

11 GENERAL INVESTIGATIONS

12 For expenses necessary for the collection and study
13 of basic information pertaining to river and harbor, flood
14 control, shore protection, aquatic ecosystem restoration,
15 and related projects, restudy of authorized projects, mis-
16 cellaneous investigations, and, when authorized by law,
17 surveys and detailed studies and plans and specifications
18 of projects prior to construction, \$117,788,000, to remain
19 available until expended: *Provided*, That for the Ohio
20 Riverfront, Cincinnati, Ohio, project, the cost of planning
21 and design undertaken by non-Federal interests shall be
22 credited toward the non-Federal share of project design
23 costs.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, aquatic ecosystem restoration, and related projects authorized by law; and detailed studies, and plans and specifications, of projects authorized or made eligible for selection by law, \$1,642,911,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund; and of which such sums as are necessary to cover one-half of the costs of construction and rehabilitation of inland waterways projects (including rehabilitation costs for the Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota, projects) shall be derived from the Inland Waterways Trust Fund: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the New York and New Jersey Harbor project, 50-foot deepening element, upon execution of the Project Cooperation Agreement: *Provided further*, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the construction of the

1 Port Jersey element of the New York and New Jersey
2 Harbor or reimbursement to the Local Sponsor for the
3 construction of the Port Jersey element until commit-
4 ments for construction of container handling facilities are
5 obtained from the non-Federal sponsor for a second user
6 along the Port Jersey element: *Provided further*, That
7 none of the funds appropriated in this Act for the preser-
8 vation and restoration of the Florida Everglades shall be
9 made available for expenditure unless the Secretary of the
10 Army certifies that the water entering the A.R.M.
11 Loxahatchee National Wildlife Refuge and Everglades Na-
12 tional Park meets the water quality requirements set forth
13 in the Consent Decree entered in United States v. South
14 Florida Water Management District. This certification
15 may be made by letter, with all necessary supporting docu-
16 mentation, as soon as possible, but in no case later than
17 30 days after this Act becomes effective.

18 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

19 ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA,

20 MISSISSIPPI, MISSOURI, AND TENNESSEE

21 For expenses necessary for the flood damage reduc-
22 tion program for the Mississippi River alluvial valley below
23 Cape Girardeau, Missouri, as authorized by law,
24 \$301,054,000, to remain available until expended.

1 OPERATION AND MAINTENANCE, GENERAL

2 For expenses necessary for the operation, mainte-
3 nance, and care of existing river and harbor, flood and
4 storm damage reduction, aquatic ecosystem restoration,
5 and related projects; for providing security for infrastruc-
6 ture owned and operated by, or on behalf of, the U.S.
7 Army Corps of Engineers, including administrative build-
8 ings and facilities, laboratories, and the Washington Aque-
9 duct; for the maintenance of harbor channels provided by
10 a State, municipality, or other public agency that serve
11 essential navigation needs of general commerce, where au-
12 thorized by law; and for surveys and charting of northern
13 and northwestern lakes and connecting waters, clearing
14 and straightening channels, and removal of obstructions
15 to navigation, \$1,932,575,000, to remain available until
16 expended, of which such sums as become available in the
17 Harbor Maintenance Trust Fund, pursuant to Public Law
18 99-662 may be derived from that fund, and of which such
19 sums as become available from the special account for the
20 U.S. Army Corps of Engineers established by the Land
21 and Water Conservation Act of 1965, as amended (16
22 U.S.C. 460l-6a(i)), may be derived from that account for
23 resource protection, research, interpretation, and mainte-
24 nance activities related to resource protection in the areas
25 at which outdoor recreation is available; and of which such

1 sums as become available under section 217 of the Water
2 Resources Development Act of 1996, Public Law 104–
3 303, shall be used to cover the cost of operation and main-
4 tenance of the dredged material disposal facilities for
5 which fees have been collected.

6 REGULATORY PROGRAM

7 For expenses necessary for administration of laws
8 pertaining to regulation of navigable waters and wetlands,
9 \$144,000,000, to remain available until expended.

10 FORMERLY UTILIZED SITES REMEDIAL ACTION
11 PROGRAM

12 For expenses necessary to clean up contamination
13 from sites in the United States resulting from work per-
14 formed as part of the Nation’s early atomic energy pro-
15 gram, \$140,000,000, to remain available until expended.

16 FLOOD CONTROL AND COASTAL EMERGENCIES

17 For expenses necessary for emergency flood control,
18 response to hurricanes and other natural disasters, and
19 related activities, including the activities that the U.S.
20 Army Corps of Engineers undertakes to ensure its readi-
21 ness to respond to such emergencies, \$40,000,000 to re-
22 main available until expended.

23 GENERAL EXPENSES

24 For expenses necessary for general administration
25 and related civil works functions in the headquarters of

1 the U.S. Army Corps of Engineers, the offices of the Divi-
2 sion Engineers, the Humphreys Engineer Center Support
3 Activity, the Institute for Water Resources, the U.S. Army
4 Engineer Research and Development Center, and the U.S.
5 Army Corps of Engineers Finance Center, \$164,000,000,
6 to remain available until expended: *Provided*, That no part
7 of any other appropriation provided in title I of this Act
8 shall be available to fund the activities of the Office of
9 the Chief of Engineers or the executive direction and man-
10 agement activities of the division offices: *Provided further*,
11 That none of these funds shall be available to support an
12 office of congressional affairs within the executive office
13 of the Chief of Engineers.

14 ADMINISTRATIVE PROVISIONS

15 Appropriations in this title shall be available for offi-
16 cial reception and representation expenses (not to exceed
17 \$5,000); and during the current fiscal year the Revolving
18 Fund, Corps of Engineers, shall be available for purchase
19 (not to exceed 100 for replacement only) and hire of pas-
20 senger motor vehicles.

21 GENERAL PROVISIONS

22 CORPS OF ENGINEERS—CIVIL

23 SEC. 101. Agreements proposed for execution by the
24 Assistant Secretary of the Army for Civil Works or the
25 United States Army Corps of Engineers after the date of

1 the enactment of this Act pursuant to section 4 of the
2 Rivers and Harbor Act of 1915, Public Law 64–291; sec-
3 tion 11 of the River and Harbor Act of 1925, Public Law
4 68–585; the Civil Functions Appropriations Act, 1936,
5 Public Law 75–208; section 215 of the Flood Control Act
6 of 1968, as amended, Public Law 90–483; sections 104,
7 203, and 204 of the Water Resources Development Act
8 of 1986, as amended, Public Law 99–662; section 206 of
9 the Water Resources Development Act of 1992, as amend-
10 ed, Public Law 102–580; section 211 of the Water Re-
11 sources Development Act of 1996, Public Law 104–303;
12 and any other specific project authority, shall be limited
13 to credits and reimbursements per project not to exceed
14 \$10,000,000 in each fiscal year, and total credits and re-
15 imbursements for all applicable projects not to exceed
16 \$50,000,000 in each fiscal year.

17 SEC. 102. None of the funds appropriated in this or
18 any other Act may be used by the United States Army
19 Corps of Engineers to support activities related to the pro-
20 posed Ridge Landfill in Tuscarawas County, Ohio.

21 SEC. 103. None of the funds appropriated in this or
22 any other Act may be used by the United States Army
23 Corps of Engineers to support activities related to the pro-
24 posed Indian Run Sanitary Landfill in Sandy Township,
25 Stark County, Ohio.

1 NAMING OF LOCK AND DAM 3, ALLEGHENY RIVER,
2 PENNSYLVANIA

3 Sec. 104. (a) DESIGNATION.—Lock and dam num-
4 bered 3 on the Allegheny River, Pennsylvania, shall be
5 known and designated as the “C.W. Bill Young Lock and
6 Dam”.

7 (b) LEGAL REFERENCES.—A reference in any law,
8 regulation, document, record, map, or other paper of the
9 United States to the lock and dam referred to in sub-
10 section (a) shall be deemed to be a reference to the “C.W.
11 ‘Bill’ Young Lock and Dam”.

12 TITLE II
13 DEPARTMENT OF THE INTERIOR
14 CENTRAL UTAH PROJECT

15 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

16 For carrying out activities authorized by the Central
17 Utah Project Completion Act, \$36,463,000, to remain
18 available until expended, of which \$9,423,000 shall be de-
19 posited into the Utah Reclamation Mitigation and Con-
20 servation Account for use by the Utah Reclamation Miti-
21 gation and Conservation Commission.

22 In addition, for necessary expenses incurred in car-
23 rying out related responsibilities of the Secretary of the
24 Interior, \$1,728,000, to remain available until expended.

1 BUREAU OF RECLAMATION

2 WATER AND RELATED RESOURCES

3 (INCLUDING TRANSFER OF FUNDS)

4 For management, development, and restoration of
5 water and related natural resources and for related activi-
6 ties, including the operation, maintenance, and rehabilita-
7 tion of reclamation and other facilities, participation in
8 fulfilling related Federal responsibilities to Native Ameri-
9 cans, and related grants to, and cooperative and other
10 agreements with, State and local governments, Indian
11 tribes, and others, \$817,913,000, to remain available until
12 expended, of which \$57,330,000 shall be available for
13 transfer to the Upper Colorado River Basin Fund and
14 \$33,570,000 shall be available for transfer to the Lower
15 Colorado River Basin Development Fund; of which such
16 amounts as may be necessary may be advanced to the Col-
17 orado River Dam Fund; and of which not more than
18 \$500,000 is for high priority projects which shall be car-
19 ried out by the Youth Conservation Corps, as authorized
20 by 16 U.S.C. 1706: *Provided*, That such transfers may
21 be increased or decreased within the overall appropriation
22 under this heading: *Provided further*, That of the total ap-
23 propriated, the amount for program activities that can be
24 financed by the Reclamation Fund or the Bureau of Rec-
25 lamation special fee account established by 16 U.S.C.
26 460l–6a(i) shall be derived from that Fund or account:

1 *Provided further*, That funds contributed under 43 U.S.C.
2 395 are available until expended for the purposes for
3 which contributed: *Provided further*, That funds advanced
4 under 43 U.S.C. 397a shall be credited to this account
5 and are available until expended for the same purposes
6 as the sums appropriated under this heading: *Provided*
7 *further*, That funds available for expenditure for the De-
8 partmental Irrigation Drainage Program may be expended
9 by the Bureau of Reclamation for site remediation on a
10 non-reimbursable basis: *Provided further*, That
11 \$10,000,000 of the funds appropriated herein shall be de-
12 posited in the San Gabriel Basin Restoration Fund estab-
13 lished by section 110 of division B, title I of Public Law
14 106–554, as amended: *Provided further*, That section 301
15 of Public Law 102–250, Reclamation States Emergency
16 Drought Relief Act of 1991, as amended, is amended fur-
17 ther by inserting “2003, and 2004” in lieu of “and 2003”.

18 BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

19 For administrative expenses necessary to carry out
20 the program for direct loans and/or grants, \$200,000, to
21 remain available until expended, of which the amount that
22 can be financed by the Reclamation Fund shall be derived
23 from that fund.

24 CENTRAL VALLEY PROJECT RESTORATION FUND

25 For carrying out the programs, projects, plans, and
26 habitat restoration, improvement, and acquisition provi-

1 sions of the Central Valley Project Improvement Act,
2 \$39,600,000, to be derived from such sums as may be col-
3 lected in the Central Valley Project Restoration Fund pur-
4 suant to sections 3407(d), 3404(c)(3), 3405(f), and
5 3406(c)(1) of Public Law 102–575, to remain available
6 until expended: *Provided*, That the Bureau of Reclamation
7 is directed to assess and collect the full amount of the
8 additional mitigation and restoration payments authorized
9 by section 3407(d) of Public Law 102–575: *Provided fur-*
10 *ther*, That none of the funds made available under this
11 heading may be used for the acquisition or leasing of water
12 for in-stream purposes if the water is already committed
13 to in-stream purposes by a court adopted decree or order.

14 POLICY AND ADMINISTRATION

15 For necessary expenses of policy, administration, and
16 related functions in the office of the Commissioner, the
17 Denver office, and offices in the five regions of the Bureau
18 of Reclamation, to remain available until expended,
19 \$56,525,000, to be derived from the Reclamation Fund
20 and be nonreimbursable as provided in 43 U.S.C. 377:
21 *Provided*, That no part of any other appropriation in this
22 Act shall be available for activities or functions budgeted
23 as policy and administration expenses.

1 WORKING CAPITAL FUND

2 (RESCISSION)

3 From unobligated balances under this heading,
4 \$4,525,000 are rescinded.

5 ADMINISTRATIVE PROVISION

6 Appropriations for the Bureau of Reclamation shall
7 be available for purchase of not to exceed 14 passenger
8 motor vehicles, of which 12 are for replacement only.

9 GENERAL PROVISIONS

10 DEPARTMENT OF THE INTERIOR

11 SEC. 201. (a) None of the funds appropriated or oth-
12 erwise made available by this Act may be used to deter-
13 mine the final point of discharge for the interceptor drain
14 for the San Luis Unit until development by the Secretary
15 of the Interior and the State of California of a plan, which
16 shall conform to the water quality standards of the State
17 of California as approved by the Administrator of the En-
18 vironmental Protection Agency, to minimize any detri-
19 mental effect of the San Luis drainage waters.

20 (b) The costs of the Kesterson Reservoir Cleanup
21 Program and the costs of the San Joaquin Valley Drain-
22 age Program shall be classified by the Secretary of the
23 Interior as reimbursable or nonreimbursable and collected
24 until fully repaid pursuant to the “Cleanup Program-Al-
25 ternative Repayment Plan” and the “SJVDP–Alternative
26 Repayment Plan” described in the report entitled “Repay-

1 ment Report, Kesterson Reservoir Cleanup Program and
2 San Joaquin Valley Drainage Program, February 1995”,
3 prepared by the Department of the Interior, Bureau of
4 Reclamation. Any future obligations of funds by the
5 United States relating to, or providing for, drainage serv-
6 ice or drainage studies for the San Luis Unit shall be fully
7 reimbursable by San Luis Unit beneficiaries of such serv-
8 ice or studies pursuant to Federal reclamation law.

9 SEC. 202. None of the funds appropriated or other-
10 wise made available by this or any other Act may be used
11 to pay the salaries and expenses of personnel to purchase
12 or lease water in the Middle Rio Grande or the Carlsbad
13 Projects in New Mexico unless said purchase or lease is
14 in compliance with the purchase requirements of section
15 202 of Public Law 106–60.

16 SEC. 203. Subsection 206(b) of Public Law 101–514
17 is amended as follows: In paragraph (1), strike “, with
18 annual quantities delivered under these contracts to be de-
19 termined by the Secretary based upon the quantity of
20 water actually needed within the Sacramento County
21 Water Agency service area and San Juan Suburban Water
22 District after considering reasonable efforts to: (i) pro-
23 mote full utilization of existing water entitlements within
24 Sacramento County, (ii) implement water conservation
25 and metering programs within the areas served by the con-

1 tract, and (iii) implement programs to maximize to the
2 extent feasible conjunctive use of surface water and
3 groundwater”.

4 SEC. 204. The Secretary of the Interior is authorized
5 and directed to amend the Central Valley Project water
6 supply contracts of the Sacramento County Water Agency
7 and the San Juan Suburban Water District by deleting
8 a provision requiring a determination of annual water
9 needs included pursuant to section 206 of Public Law
10 101–514.

11 LOWER COLORADO RIVER BASIN DEVELOPMENT

12 SEC. 205. (a) IN GENERAL.—Notwithstanding sec-
13 tion 403(f) of the Colorado River Basin Project Act (43
14 U.S.C. 1543(f)), no amount from the Lower Colorado
15 River Basin Development Fund shall be paid to the gen-
16 eral fund of the Treasury until each provision of the re-
17 vised Stipulation Regarding a Stay and for Ultimate
18 Judgment Upon the Satisfaction of Conditions, filed in
19 United States district court, in Central Arizona Water
20 Conservation District v. United States (No. CIV 95–625–
21 TUC–WDB (EHC), No. CIV 95–1720–OHX–EHC (Con-
22 solidated Action)), and any amendment or revision there-
23 of, is met.

24 (b) PAYMENT TO GENERAL FUND.—If any of the
25 provisions of the stipulation referred to in subsection (a)
26 are not met by the date that is ten years after the date

1 of enactment of this Act, payments to the general fund
2 of the Treasury shall resume in accordance with section
3 403(f) of the Colorado River Basin Project Act (43 U.S.C.
4 1543(f)).

5 (c) AUTHORIZATION.—Amounts in the Lower Colo-
6 rado River Basin Development Fund that but for this sec-
7 tion would be returned to the general fund of the Treasury
8 shall not be expended until further Act of Congress.

9 SEC. 206. The second paragraph under the heading
10 “Administrative Provisions” in Public Law 102–377 (43
11 U.S.C. 377b) is amended by inserting “, not to exceed
12 \$5,000,000 for each causal event giving rise to a claim
13 or claims” after “activities of the Bureau of Reclamation”.

14 TITLE III

15 DEPARTMENT OF ENERGY

16 ENERGY PROGRAMS

17 ENERGY SUPPLY

18 For Department of Energy expenses including the
19 purchase, construction, and acquisition of plant and cap-
20 ital equipment, and other expenses necessary for energy
21 supply activities in carrying out the purposes of the De-
22 partment of Energy Organization Act (42 U.S.C. 7101 et
23 seq.), including the acquisition or condemnation of any
24 real property or any facility or for plant or facility acquisi-
25 tion, construction, or expansion, and the purchase of not

1 to exceed 12 passenger motor vehicles for replacement
2 only, including two buses; \$691,534,000, to remain avail-
3 able until expended.

4 NON-DEFENSE SITE ACCELERATION COMPLETION

5 For Department of Energy expenses, including the
6 purchase, construction, and acquisition of plant and cap-
7 ital equipment and other expenses necessary for non-de-
8 fense environmental management site acceleration activi-
9 ties in carrying out the purposes of the Department of
10 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
11 ing the acquisition or condemnation of any real property
12 or any facility or for plant or facility acquisition, construc-
13 tion, or expansion, \$170,875,000, to remain available until
14 expended.

15 NON-DEFENSE ENVIRONMENTAL SERVICES

16 For Department of Energy expenses necessary for
17 non-defense environmental services activities conducted as
18 a result of nuclear energy research and development activi-
19 ties that indirectly support the accelerated cleanup and
20 closure mission at environmental management sites, as
21 well as new work scope transferred to the Environmental
22 Management program, including the purchase, construc-
23 tion, and acquisition of plant and capital equipment and
24 other necessary expenses, \$320,468,000, to remain avail-
25 able until expended.

1 URANIUM ENRICHMENT DECONTAMINATION AND
2 DECOMMISSIONING FUND

3 For necessary expenses in carrying out uranium en-
4 richment facility decontamination and decommissioning,
5 remedial actions, and other activities of title II of the
6 Atomic Energy Act of 1954 and title X, subtitle A, of the
7 Energy Policy Act of 1992, \$392,002,000, to be derived
8 from the Fund, to remain available until expended, of
9 which \$51,000,000 shall be available in accordance with
10 title X, subtitle A, of the Energy Policy Act of 1992.

11 SCIENCE

12 For Department of Energy expenses including the
13 purchase, construction and acquisition of plant and capital
14 equipment, and other expenses necessary for science ac-
15 tivities in carrying out the purposes of the Department
16 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
17 cluding the acquisition or condemnation of any real prop-
18 erty or facility or for plant or facility acquisition, construc-
19 tion, or expansion, and purchase of not to exceed 15 pas-
20 senger motor vehicles for replacement only, including not
21 to exceed one ambulance, \$3,480,180,000, to remain avail-
22 able until expended.

23 NUCLEAR WASTE DISPOSAL

24 For nuclear waste disposal activities to carry out the
25 purposes of Public Law 97-425, as amended, including

1 the acquisition of real property or facility construction or
2 expansion, \$335,000,000, to remain available until ex-
3 pended and to be derived from the Nuclear Waste Fund:
4 *Provided*, That of the funds made available in this Act,
5 \$70,000,000 shall be used to initiate development of a rail
6 line in the State of Nevada, connecting the existing na-
7 tional rail network with the repository site on the Nevada
8 Test Site: *Provided further*, That none of the funds pro-
9 vided in this or any other appropriations Act may be used
10 for the planning, design, or development of the rail cor-
11 ridors that pass near the Las Vegas Metropolitan Area,
12 specifically the Valley Modified Corridor and the Jean
13 Corridor, and variations thereof, as these corridors are de-
14 lineated in the Final Environmental Impact Statement for
15 a Geologic Repository for the Disposal of Spent Nuclear
16 Fuel and High-Level Radioactive Waste at Yucca Moun-
17 tain, Nye County, Nevada, dated February 2002: *Provided*
18 *further*, That \$65,000,000 of the \$70,000,000 made avail-
19 able in this Act for Nevada rail transportation shall be
20 available only if the Secretary designates rail as the pre-
21 ferred mode of transportation within Nevada and selects
22 a Nevada rail corridor within 60 days of enactment of this
23 Act and commences the necessary environmental and engi-
24 neering analysis to develop and issue a Record of Decision
25 for a specific rail alignment within the selected rail cor-

1 ridor by June 30, 2005: *Provided further*, That not to ex-
2 ceed \$2,500,000 shall be provided to the State of Nevada
3 solely for expenditures, other than salaries and expenses
4 of State employees, to conduct scientific oversight respon-
5 sibilities and participate in licensing activities pursuant to
6 the Nuclear Waste Policy Act of 1982 (Public Law 97–
7 425), as amended: *Provided further*, That not to exceed
8 \$6,500,000 shall be provided to affected units of local gov-
9 ernments, as defined in Public Law 97–425, to conduct
10 appropriate activities pursuant to the Act: *Provided fur-*
11 *ther*, That the distribution of funds to the State of Nevada
12 and affected units of local government shall be solely for
13 activities approved in advance by the Department of En-
14 ergy: *Provided further*, That the funds for the State of
15 Nevada shall be made available solely to the Nevada Divi-
16 sion of Emergency Management by direct payment and
17 to affected units of local government by direct payment:
18 *Provided further*, That within 90 days of the completion
19 of each Federal fiscal year, the Nevada Division of Emer-
20 gency Management, the Governor of the State of Nevada,
21 and each affected unit of local government receiving pay-
22 ments under this section shall provide certification to the
23 Department of Energy that all funds expended from such
24 payments have been expended for activities authorized by
25 Public Law 97–425 and this Act. Failure to provide such

1 certification shall cause such entity to be prohibited from
2 receiving any further Federal funding provided for similar
3 activities: *Provided further*, That none of the funds herein
4 appropriated may be: (1) used directly or indirectly to in-
5 fluence legislative action on any matter pending before
6 Congress or a State legislature or for lobbying activity as
7 provided in 18 U.S.C. 1913; (2) used for litigation ex-
8 penses; or (3) used to support multi-State efforts or other
9 coalition building activities: *Provided further*, That all pro-
10 ceeds and recoveries realized by the Secretary in carrying
11 out activities authorized by the Nuclear Waste Policy Act
12 of 1982, as amended, including but not limited to, any
13 proceeds from the sale of assets shall be available without
14 further appropriation and shall remain available until ex-
15 pended.

16 DEPARTMENTAL ADMINISTRATION

17 (INCLUDING TRANSFER OF FUNDS)

18 For salaries and expenses of the Department of En-
19 ergy necessary for departmental administration in car-
20 rying out the purposes of the Department of Energy Orga-
21 nization Act (42 U.S.C. 7101 et seq.), including the hire
22 of passenger motor vehicles and official reception and rep-
23 resentation expenses (not to exceed \$35,000),
24 \$224,329,000, to remain available until expended, plus
25 such additional amounts as necessary to cover increases

1 in the estimated amount of cost of work for others not-
2 withstanding the provisions of the Anti-Deficiency Act (31
3 U.S.C. 1511 et seq.): *Provided*, That such increases in cost
4 of work are offset by revenue increases of the same or
5 greater amount, to remain available until expended: *Pro-*
6 *vided further*, That moneys received by the Department
7 for miscellaneous revenues estimated to total
8 \$123,000,000 in fiscal year 2004 may be retained and
9 used for operating expenses within this account, and may
10 remain available until expended, as authorized by section
11 201 of Public Law 95–238, notwithstanding the provisions
12 of 31 U.S.C. 3302: *Provided further*, That the sum herein
13 appropriated shall be reduced by the amount of miscella-
14 neous revenues received during fiscal year 2004, and any
15 related unappropriated receipt account balances remaining
16 from prior years’ miscellaneous revenues, so as to result
17 in a final fiscal year 2004 appropriation from the General
18 Fund estimated at not more than \$101,329,000.

19 OFFICE OF THE INSPECTOR GENERAL

20 For necessary expenses of the Office of the Inspector
21 General in carrying out the provisions of the Inspector
22 General Act of 1978, as amended, \$39,462,000, to remain
23 available until expended.

1 ATOMIC ENERGY DEFENSE ACTIVITIES

2 NATIONAL NUCLEAR SECURITY

3 ADMINISTRATION

4 WEAPONS ACTIVITIES

5 For Department of Energy expenses, including the
6 purchase, construction, and acquisition of plant and cap-
7 ital equipment and other incidental expenses necessary for
8 atomic energy defense weapons activities in carrying out
9 the purposes of the Department of Energy Organization
10 Act (42 U.S.C. 7101 et seq.), including the acquisition or
11 condemnation of any real property or any facility or for
12 plant or facility acquisition, construction, or expansion;
13 one fixed wing aircraft for replacement only; and the pur-
14 chase of not to exceed six passenger motor vehicles, of
15 which four shall be for replacement only, including not to
16 exceed two buses; \$6,117,609,000, to remain available
17 until September 30, 2006.

18 DEFENSE NUCLEAR NONPROLIFERATION

19 For Department of Energy expenses, including the
20 purchase, construction and acquisition of plant and capital
21 equipment and other incidental expenses necessary for
22 atomic energy defense, defense nuclear nonproliferation
23 activities, in carrying out the purposes of the Department
24 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
25 cluding the acquisition or condemnation of any real prop-

erty or any facility or for plant or facility acquisition, construction, or expansion, \$1,280,195,000, to remain available until September 30, 2006.

NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, and the purchase of not to exceed one bus; \$768,400,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses (not to exceed \$12,000), \$341,980,000, to remain available until September 30, 2006.

ENVIRONMENTAL AND OTHER DEFENSE

ACTIVITIES

DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense site acceleration completion activities in

1 carrying out the purposes of the Department of Energy
2 Organization Act (42 U.S.C. 7101 et seq.), including the
3 acquisition or condemnation of any real property or any
4 facility or for plant or facility acquisition, construction, or
5 expansion; \$5,758,278,000, to remain available until ex-
6 pended.

7 DEFENSE ENVIRONMENTAL SERVICES

8 For Department of Energy expenses necessary for
9 defense-related environmental services activities that indi-
10 rectly support the accelerated cleanup and closure mission
11 at environmental management sites, including the pur-
12 chase, construction, and acquisition of plant and capital
13 equipment and other necessary expenses, and the purchase
14 of not to exceed one ambulance for replacement only,
15 \$990,179,000, to remain available until expended.

16 OTHER DEFENSE ACTIVITIES

17 For Department of Energy expenses, including the
18 purchase, construction, and acquisition of plant and cap-
19 ital equipment and other expenses necessary for atomic
20 energy defense, other defense activities, in carrying out the
21 purposes of the Department of Energy Organization Act
22 (42 U.S.C. 7101 et seq.), including the acquisition or con-
23 demnation of any real property or any facility or for plant
24 or facility acquisition, construction, or expansion,
25 \$666,516,000, to remain available until expended.

1 DEFENSE NUCLEAR WASTE DISPOSAL

2 For nuclear waste disposal activities to carry out the
3 purposes of Public Law 97–425, as amended, including
4 the acquisition of real property or facility construction or
5 expansion, \$430,000,000, to remain available until ex-
6 pended.

7 CERRO GRANDE FIRE ACTIVITIES

8 (RESCISSION)

9 From unobligated balances under this heading,
10 \$75,000,000 are cancelled.

11 POWER MARKETING ADMINISTRATIONS

12 BONNEVILLE POWER ADMINISTRATION FUND

13 Expenditures from the Bonneville Power Administra-
14 tion Fund, established pursuant to Public Law 93–454,
15 are approved for official reception and representation ex-
16 penses in an amount not to exceed \$1,500. During fiscal
17 year 2004, no new direct loan obligations may be made.

18 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER

19 ADMINISTRATION

20 For necessary expenses of operation and maintenance
21 of power transmission facilities and of marketing electric
22 power and energy, including transmission wheeling and
23 ancillary services, pursuant to the provisions of section 5
24 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
25 applied to the southeastern power area, \$5,100,000, to re-

1 main available until expended; in addition, notwith-
2 standing the provisions of 31 U.S.C. 3302, up to
3 \$19,000,000 collected by the Southeastern Power Admin-
4 istration pursuant to the Flood Control Act to recover pur-
5 chase power and wheeling expenses shall be credited to
6 this account as offsetting collections, to remain available
7 until expended for the sole purpose of making purchase
8 power and wheeling expenditures.

9 OPERATION AND MAINTENANCE, SOUTHWESTERN
10 POWER ADMINISTRATION

11 For necessary expenses of operation and maintenance
12 of power transmission facilities and of marketing electric
13 power and energy, for construction and acquisition of
14 transmission lines, substations and appurtenant facilities,
15 and for administrative expenses, including official recep-
16 tion and representation expenses in an amount not to ex-
17 ceed \$1,500 in carrying out the provisions of section 5
18 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
19 applied to the southwestern power area, \$28,600,000, to
20 remain available until expended: *Provided*, That, notwith-
21 standing the provisions of 31 U.S.C. 3302, up to
22 \$1,512,000 collected by the Southwestern Power Adminis-
23 tration pursuant to the Flood Control Act to recover pur-
24 chase power and wheeling expenses shall be credited to
25 this account as offsetting collections, to remain available

1 until expended for the sole purpose of making purchase
2 power and wheeling expenditures; in addition, notwith-
3 standing 31 U.S.C. 3302, beginning in fiscal year 2004
4 and thereafter, such funds as are received by the South-
5 western Power Administration from any State, munic-
6 ipality, corporation, association, firm, district, or individual
7 as advance payment for work that is associated with
8 Southwestern's transmission facilities, consistent with
9 that authorized in section 5 of the Flood Control Act, shall
10 be credited to this account and be available until ex-
11 pended.

12 CONSTRUCTION, REHABILITATION, OPERATION AND
13 MAINTENANCE, WESTERN AREA POWER ADMINIS-
14 TRATION

15 For carrying out the functions authorized by title III,
16 section 302(a)(1)(E) of the Act of August 4, 1977 (42
17 U.S.C. 7152), and other related activities including con-
18 servation and renewable resources programs as author-
19 ized, including official reception and representation ex-
20 penses in an amount not to exceed \$1,500, \$171,000,000,
21 to remain available until expended, of which \$167,236,000
22 shall be derived from the Department of the Interior Rec-
23 lamation Fund: *Provided*, That up to \$166,000,000 col-
24 lected by the Western Area Power Administration pursu-
25 ant to the Flood Control Act of 1944 and the Reclamation

1 Project Act of 1939 to recover purchase power and wheel-
2 ing expenses shall be credited to this account as offsetting
3 collections, to remain available until expended for the sole
4 purpose of making purchase power and wheeling expendi-
5 tures.

6 FALCON AND AMISTAD OPERATING AND MAINTENANCE
7 FUND

8 For operation, maintenance, and emergency costs for
9 the hydroelectric facilities at the Falcon and Amistad
10 Dams, \$2,640,000, to remain available until expended,
11 and to be derived from the Falcon and Amistad Operating
12 and Maintenance Fund of the Western Area Power Ad-
13 ministration, as provided in section 423 of the Foreign
14 Relations Authorization Act, Fiscal Years 1994 and 1995.

15 FEDERAL ENERGY REGULATORY COMMISSION
16 SALARIES AND EXPENSES

17 For necessary expenses of the Federal Energy Regu-
18 latory Commission to carry out the provisions of the De-
19 partment of Energy Organization Act (42 U.S.C. 7101 et
20 seq.), including services as authorized by 5 U.S.C. 3109,
21 the hire of passenger motor vehicles, and official reception
22 and representation expenses (not to exceed \$3,000),
23 \$192,000,000, to remain available until expended: *Pro-*
24 *vided*, That notwithstanding any other provision of law,
25 not to exceed \$192,000,000 of revenues from fees and an-

1 nual charges, and other services and collections in fiscal
2 year 2004 shall be retained and used for necessary ex-
3 penses in this account, and shall remain available until
4 expended: *Provided further*, That the sum herein appro-
5 priated from the General Fund shall be reduced as reve-
6 nues are received during fiscal year 2004 so as to result
7 in a final fiscal year 2004 appropriation from the General
8 Fund estimated at not more than \$0.

9 GENERAL PROVISIONS

10 DEPARTMENT OF ENERGY

11 SEC. 301. (a) Notwithstanding any other provision
12 of law, including section 303(c)(1) of title III of the Fed-
13 eral Property and Administrative Services Act of 1949 (41
14 U.S.C. 253(c)(3)), none of the funds in this or any other
15 appropriations Act for fiscal year 2004 or any previous
16 fiscal year may be used to make payments for any man-
17 agement and operating contract of the Department of En-
18 ergy unless that contract was awarded using competitive
19 procedures within the past fifty fiscal years or unless the
20 Secretary of Energy, not later than sixty days after the
21 date of enactment of this Act, publishes in the Federal
22 Register and submits to the Committees on Appropria-
23 tions of the House of Representatives and the Senate a
24 notification of intent to use competitive procedures for the

1 procurement of each management and operating contract
2 when the current term of each such contract expires.

3 (b) The Secretary may not impose any conditions on
4 the competition of a management and operating contract
5 that is funded under this or any other appropriations Act
6 that may have the effect of biasing the competition in
7 favor of the incumbent contractor or otherwise providing
8 for anything less than full and open competition of such
9 contracts.

10 (c) For purposes of this section, the term “manage-
11 ment and operating contract” means a contract for the
12 management and operation of a Department of Energy
13 laboratory, facility, site, or plant as used in subpart
14 17.601 of the Federal Acquisition Regulation.

15 (d) For purposes of this section, the terms “competi-
16 tive procedures” and “full and open competition” have the
17 meanings provided in section 4 of the Office of Federal
18 Procurement Policy Act (41 U.S.C. 403).

19 (e) The provisions of subsection (a) in this section
20 apply to contracts awarded for a term of one year or more,
21 not to interim extensions of less than one year used to
22 extend contract performance until a long-term contract is
23 placed or to provide continuity of service between con-
24 tracts.

1 SEC. 302. None of the funds appropriated by this Act
2 may be used to—

3 (1) develop or implement a workforce restruc-
4 turing plan that covers employees of the Department
5 of Energy; or

6 (2) provide enhanced severance payments or
7 other benefits for employees of the Department of
8 Energy, under section 3161 of the National Defense
9 Authorization Act for Fiscal Year 1993 (Public Law
10 102–484; 42 U.S.C. 7274h).

11 SEC. 303. None of the funds appropriated by this Act
12 may be used to augment the \$15,000,000 made available
13 for obligation by this Act for severance payments and
14 other benefits and community assistance grants under sec-
15 tion 3161 of the National Defense Authorization Act for
16 Fiscal Year 1993 (Public Law 102–484; 42 U.S.C.
17 7274h) unless the Department of Energy submits a re-
18 programming request subject to approval by the appro-
19 priate congressional committees.

20 SEC. 304. None of the funds appropriated by this Act
21 may be used to prepare or initiate Requests For Proposals
22 (RFPs) for a program if the program has not been funded
23 by Congress.

24 (TRANSFERS OF UNEXPENDED BALANCES)

25 SEC. 305. The unexpended balances of prior appro-
26 priations provided for activities in this Act may be trans-

1 ferred to appropriation accounts for such activities estab-
2 lished pursuant to this title. Balances so transferred may
3 be merged with funds in the applicable established ac-
4 counts and thereafter may be accounted for as one fund
5 for the same time period as originally enacted.

6 SEC. 306. None of the funds in this or any other Act
7 for the Administrator of the Bonneville Power Administra-
8 tion may be used to enter into any agreement to perform
9 energy efficiency services outside the legally defined Bon-
10 neville service territory, with the exception of services pro-
11 vided internationally, including services provided on a re-
12 imbursable basis, unless the Administrator certifies in ad-
13 vance that such services are not available from private sec-
14 tor businesses.

15 SEC. 307. When the Department of Energy makes
16 a user facility available to universities and other potential
17 users, or seeks input from universities and other potential
18 users regarding significant characteristics or equipment in
19 a user facility or a proposed user facility, the Department
20 shall ensure broad public notice of such availability or
21 such need for input to universities and other potential
22 users. When the Department of Energy considers the par-
23 ticipation of a university or other potential user as a for-
24 mal partner in the establishment or operation of a user
25 facility, the Department shall employ full and open com-

1 petition in selecting such a partner. For purposes of this
2 section, the term “user facility” includes, but is not lim-
3 ited to: (1) a user facility as described in section
4 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.
5 13503(a)(2)); (2) a National Nuclear Security Adminis-
6 tration Defense Programs Technology Deployment Cen-
7 ter/User Facility; and (3) any other Departmental facility
8 designated by the Department as a user facility.

9 SEC. 308. The Administrator of the National Nuclear
10 Security Administration may authorize the manager of a
11 covered nuclear weapons research, development, testing or
12 production facility to engage in research, development,
13 and demonstration activities with respect to the engineer-
14 ing and manufacturing capabilities at such facility in
15 order to maintain and enhance such capabilities at such
16 facility: *Provided*, That of the amount allocated to a cov-
17 ered nuclear weapons facility each fiscal year from
18 amounts available to the Department of Energy for such
19 fiscal year for national security programs, not more than
20 an amount equal to 2 percent of such amount may be used
21 for these activities: *Provided further*, That for purposes of
22 this section, the term “covered nuclear weapons facility”
23 means the following:

24 (1) the Kansas City Plant, Kansas City, Mis-
25 souri;

- 1 (2) the Y-12 Plant, Oak Ridge, Tennessee;
2 (3) the Pantex Plant, Amarillo, Texas;
3 (4) the Savannah River Plant, South Carolina;
4 and
5 (5) the Nevada Test Site.

6 SEC. 309. Funds appropriated by this or any other
7 Act, or made available by the transfer of funds in this
8 Act, for intelligence activities are deemed to be specifically
9 authorized by the Congress for purposes of section 504
10 of the National Security Act of 1947 (50 U.S.C. 414) dur-
11 ing fiscal year 2004 until the enactment of the Intelligence
12 Authorization Act for fiscal year 2004.

13 SEC. 310. Notwithstanding the provisions of any
14 other law, using funds appropriated in this title, the Sec-
15 retary of Energy shall proceed with planning and analyses
16 for external regulation of the Department's laboratories
17 under the Office of Science as directed in the report ac-
18 companying this bill.

19 TITLE IV

20 INDEPENDENT AGENCIES

21 APPALACHIAN REGIONAL COMMISSION

22 For expenses necessary to carry out the programs au-
23 thorized by the Appalachian Regional Development Act of
24 1965, as amended, for necessary expenses for the Federal
25 Co-Chairman and the alternate on the Appalachian Re-

1 gional Commission, for payment of the Federal share of
2 the administrative expenses of the Commission, including
3 services as authorized by 5 U.S.C. 3109, and hire of pas-
4 senger motor vehicles, \$33,145,000, to remain available
5 until expended.

6 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

7 SALARIES AND EXPENSES

8 For necessary expenses of the Defense Nuclear Fa-
9 cilities Safety Board in carrying out activities authorized
10 by the Atomic Energy Act of 1954, as amended by Public
11 Law 100–456, section 1441, \$19,559,000, to remain
12 available until expended.

13 DELTA REGIONAL AUTHORITY

14 SALARIES AND EXPENSES

15 For necessary expenses of the Delta Regional Author-
16 ity and to carry out its activities, as authorized by the
17 Delta Regional Authority Act of 2000, as amended, not-
18 withstanding sections 382C(b)(2), 382F(d), and 382M(b)
19 of said Act, \$2,000,000, to remain available until ex-
20 pended.

21 NUCLEAR REGULATORY COMMISSION

22 SALARIES AND EXPENSES

23 For necessary expenses of the Commission in car-
24 rying out the purposes of the Energy Reorganization Act
25 of 1974, as amended, and the Atomic Energy Act of 1954,

1 as amended, including official representation expenses
2 (not to exceed \$15,000), and purchase of promotional
3 items for use in the recruitment of individuals for employ-
4 ment, \$618,800,000, to remain available until expended:
5 *Provided*, That of the amount appropriated herein,
6 \$33,100,000 shall be derived from the Nuclear Waste
7 Fund: *Provided further*, That revenues from licensing fees,
8 inspection services, and other services and collections esti-
9 mated at \$538,844,000 in fiscal year 2004 shall be re-
10 tained and used for necessary salaries and expenses in this
11 account, notwithstanding 31 U.S.C. 3302, and shall re-
12 main available until expended: *Provided further*, That the
13 sum herein appropriated shall be reduced by the amount
14 of revenues received during fiscal year 2004 so as to result
15 in a final fiscal year 2004 appropriation estimated at not
16 more than \$79,956,000.

17 OFFICE OF INSPECTOR GENERAL

18 For necessary expenses of the Office of Inspector
19 General in carrying out the Inspector General Act of 1978,
20 as amended, \$7,300,000, to remain available until Sep-
21 tember 30, 2005: *Provided*, That revenues from licensing
22 fees, inspection services, and other services and collections
23 estimated at \$6,716,000 in fiscal year 2004 shall be re-
24 tained and be available until expended, for necessary sala-
25 ries and expenses in this account notwithstanding 31

1 U.S.C. 3302: *Provided further*, That the sum herein ap-
 2 propriated shall be reduced by the amount of revenues re-
 3 ceived during fiscal year 2004 so as to result in a final
 4 fiscal year 2004 appropriation estimated at not more than
 5 \$584,000.

6 NUCLEAR WASTE TECHNICAL REVIEW BOARD

7 SALARIES AND EXPENSES

8 For necessary expenses of the Nuclear Waste Tech-
 9 nical Review Board, as authorized by Public Law 100–
 10 203, section 5051, \$3,177,000, to be derived from the Nu-
 11 clear Waste Fund, and to remain available until expended.

12 TITLE V

13 GENERAL PROVISIONS

14 SEC. 501. None of the funds appropriated by this Act
 15 may be used in any way, directly or indirectly, to influence
 16 congressional action on any legislation or appropriation
 17 matters pending before Congress, other than to commu-
 18 nicate to Members of Congress as described in 18 U.S.C.
 19 1913.

20 SEC. 502. (a) PURCHASE OF AMERICAN-MADE
 21 EQUIPMENT AND PRODUCTS.—It is the sense of the Con-
 22 gress that, to the greatest extent practicable, all equip-
 23 ment and products purchased with funds made available
 24 in this Act should be American-made.

1 (b) NOTICE REQUIREMENT.—In providing financial
2 assistance to, or entering into any contract with, any enti-
3 ty using funds made available in this Act, the head of each
4 Federal agency, to the greatest extent practicable, shall
5 provide to such entity a notice describing the statement
6 made in subsection (a) by the Congress.

7 (c) PROHIBITION OF CONTRACTS WITH PERSONS
8 FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—
9 If it has been finally determined by a court or Federal
10 agency that any person intentionally affixed a label bear-
11 ing a “Made in America” inscription, or any inscription
12 with the same meaning, to any product sold in or shipped
13 to the United States that is not made in the United
14 States, the person shall be ineligible to receive any con-
15 tract or subcontract made with funds made available in
16 this Act, pursuant to the debarment, suspension, and ineli-
17 gibility procedures described in sections 9.400 through
18 9.409 of title 48, Code of Federal Regulations.

19 SEC. 503. None of the funds made available in this
20 Act may be transferred to any department, agency, or in-
21 strumentality of the United States Government, except
22 pursuant to a transfer made by, or transfer authority pro-
23 vided in, this Act or any other appropriation Act.

24 This Act may be cited as the “Energy and Water De-
25 velopment Appropriations Act, 2004”.

Union Calendar No. 118

108TH CONGRESS
1ST SESSION

H. R. 2754

[Report No. 108-212]

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

JULY 16, 2003

Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed